

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant or authorized representative file reference	FOR SUBSEQUENT ACTION		See form PCT/IPEA/416
International application No. PCT/IB2004/0003884	International filing date (day/month/year) 02/11/2004	Priority date (day/month/year) 03/11/2003	
International patent classification (IPC) or both national classification and IPC INV. A61K7/48			
Applicant JACQUET, Baudry			

<p>1. This international preliminary examination report, drafted by the international preliminary examining authority in virtue of article 35, is forwarded to the applicant in accordance with article 36.</p> <p>2. This REPORT comprises 6 sheets, including this cover page.</p> <p>3. This report is accompanied by ANNEXES, which include:</p> <p>a. <input checked="" type="checkbox"/> a total of (sent to the applicant and to the International Office) sheets, defined as follows:</p> <p><input checked="" type="checkbox"/> the sheets of the description, claims or drawings that have been amended and that serve as a basis for this report or sheets containing corrections authorized by the present authority (see rule 70.16 and administrative instruction 607).</p> <p><input type="checkbox"/> sheets that replace previous sheets, but which the present authority considers to contain an amendment that goes beyond the disclosure of the invention of the international application as filed, as indicated in point 4 of box I and in the additional box.</p> <p>b. <input type="checkbox"/> (sent to the International Office only) a total of (specify the type and number of electronic media), which contain a listing of the sequence(s) or one or more tables related thereto, filed in computer readable form, as indicated in the additional box relating to the listing of the sequence(s) (see administrative instruction 802).</p>
<p>4. This report contains indications and the corresponding pages relating to the following points:</p> <p><input checked="" type="checkbox"/> Box I Basis of the opinion <input checked="" type="checkbox"/> Box II Priority</p>

<input type="checkbox"/> Box III	Absence of opinion with respect to novelty, inventive step and industrial applicability
<input type="checkbox"/> Box IV	Absence of unity of invention
<input checked="" type="checkbox"/> Box V	Justified statement according to article 35(2) with respect to novelty, inventive step and industrial applicability; references and explanations to support this statement
<input type="checkbox"/> Box VI	Certain reference documents
<input type="checkbox"/> Box VII	Irregularities in the international application
<input type="checkbox"/> Box VIII	Observations on the international application

International preliminary examination application submittal date 31/08/2005	Report completion date 03/04/2006
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**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International Application No. PCT/IB2004/003884

I. Basis of the report

1. Concerning the **language**, this report is established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this point.
 - This report is established on the basis of translations from the original language into the following language, which is the language of a translation submitted for the purposes of:
 - the international search (according to rules 12.3 and 23.1(b)).
 - the publication of the international application (according to rule 12.4).
 - the international preliminary examination (according to rule 55.2 or 55.3).
2. Concerning **elements*** of the international application, this report is established on the basis of the following elements (*replacement sheets that were submitted to the receiving office in response to an invitation made in accordance with article 14 are considered in this report as being "initially deposited" and are not attached as an annex to the report*):
 - Description, pages**
1-16 as initially filed
 - Claims, No.**
1-16 received on 05/09/2005 with the letter of 30/08/2005
 - This a listing of the sequence(s) or one or more tables relating thereto, see the additional box relating to the listing of the sequence(s):
 - 3. The amendments have led to the cancellation of:
 - the description, pages
 - claims, nos
 - drawings, sheets/fig
 - the listing of sequence(s) (specify):
 - one or all tables relating to the listing of the sequence(s) (specify):
 - 4. This report has been established as if (certain) amendments, which have been considered to go beyond the disclosure of the invention as filed, had not been made, as indicated in the additional box (rule 70.2(c)):
 - the description, pages
 - claims, nos
 - drawings, sheets/fig
 - the listing of sequence(s) (specify):
 - one or all tables relating to the listing of the sequence(s) (specify):

* If the case mentioned in point 4 applies, some or all of these sheets may be labelled as "replaced".

Box II. Priority

1. This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the following documents:
 - copy of the earlier application whose priority has been claimed (Rule 66.7(a))
 - translation of the earlier application whose priority has been claimed (Rule 66.7(b))
2. This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus, for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box V. Justified statement according to Article 35(2) with respect to novelty, inventive activity and the possibility of industrial application; references and explanations to support this statement

1. Declaration

Novelty	Yes:	Claims	1-16
	No:	Claims	
Inventive step	Yes:	Claims	7, 11, 15
	No:	Claims	1-6, 8-10, 12-14, 16
Industrial applicability	Yes:	Claims	1-16
	No:	Claims	
2. References and explanations (rule 70.7):
see separate sheet

Concerning point V.

D1: WO 02/100329 A (PENINSULA INTERNATIONAL, LLC; WINSTON, DAVID; GOLDBERG, STEVEN) 19 December 2002 (2002-12-19)
D2: EP-A-0 755 633 (SCHLACHTER, HERBERT; HAMM, MICHAEL, PROF. DR) 29 January 1997 (1997-01-29)

1. Novelty

Document D1 describes a composition intended for oral administration in the form of two portions. The first portion may contain vitamin C and green tea extracts, the second may contain zinc and selenium. This document does not describe the administration of 2 compositions consecutively and separately.

The objections with regard to novelty are not therefore upheld.

The subject matter of claims 1-14 therefore complies with the requirement of novelty as defined by PCT Article 33(2).

2. Inventive step

The problem to be solved by this invention can be considered to be a composition for improving the aesthetic appearance (excess weight, conditions and/or imbalances of the skin and skin appendages) of the human body, not requiring a large number of daily administrations, reducing the risks of overdose and limiting incompatibility (competition for digestive absorption) between the different ingredients (zinc and iron), provided in the form of a 2-part composition allowing for separate and consecutive use.

Document D2, which is considered to be the closest prior art, already proposes a solution to the problem of incompatibility, in particular between metals, by a separate use over time of a composition in the form of 2 parts (A) and (B) (page 3, lines 31-54).

The composition can include a green tea extract and/or metallic compounds and/or vitamins in either the first part (A) of the composition or the second part (B) of the composition.

However, D2 does not describe a formulation including the specific composition in 2 parts (A) and (B) as described in claim 1.

According to the teaching of D1, the 2 parts (A) and (B) of the composition are taken separately and simultaneously at different times of the day according to an acceptable medical protocol.

By combining the teaching of documents D1 and D2, a person skilled in the art will separately and consecutively administer the 2 parts (A) and (B) of the composition without taking an inventive step.

This application does not satisfy the requirements of PCT Article 33(1), as the subject matter of claims 1-6, 8-10, 12-14 and 16 does not involve an inventive step as defined by PCT Article 33(3).

The subject matter of claims 7, 11 and 15 corresponds to a specific embodiment by the choice of metallic compounds and by the specific combination, green tea extract and vitamin C and optionally a metallic compound, in the same part of the composition (claims 7, 11 and 15) and therefore satisfies the requirements of PCT Article 33(3).

3. Industrial applicability

The subject matter of claims 1-16 is considered to be industrially applicable; claims 1-16 therefore satisfy the requirements of PCT Article 33(4).